

TOWN OF TIVERTON
ZONING BOARD OF REVIEW
MINUTES

March 3, 2010

The following petitions were received and will be heard by the Tiverton Zoning Board of Review on Wednesday, March 3, 2010 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, John Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt, Michael Mello (Alternate) and Raymond LaFazia (alternate)

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by Awashonks Realty, Inc. by its Attorney, James A. Donnelly of Fall River, MA requesting a dimensional variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to construct a new home at West DeMello Drive, Tiverton, RI being Map 4-3 Block 223 Card 32 on the Tiverton Tax Assessor's maps closer than the front yard setback currently required in a R80 zoning district.

DECISION: Attorney James Donnelly appeared before the board on behalf of Awashonks Realty, along with Mark DeMello. This petition was continued from last month.

Exhibit D was marked and consisted of the following documentation: Notice of hearing from Rhode Island D.E.M., the Plan that goes with the notice of hearing and the permit that was issued as a result of that hearing.

Attorney Donnelly addressed the board and stated that they are looking to build a house on this lot and need a 16 foot variance from the front yard setback. Due to the constraints of the land, along with DEM's recommendation, that is the only position the house can be constructed.

The Board went into Executive Session to discuss the matter. Ms. Gescheidt made a motion to approve the variance explaining that there are special conditions that are peculiar to the land that are not applicable to other land in the same zoning district. It's not due to the physical or the economic disability of the applicant. It doesn't appear that relief is contrary to the public interest and to apply a literal enforcement of the ordinance would result in unnecessary hardship to the owner of the property. This is not caused by an act of the applicant. It won't alter the general character of the neighborhood or improperly impinge on the purpose of the zoning law, and it seems to be the least possible relief needed to remove the hardship. Ms. Gescheidt also stated that as long as

all the conditions of DEM are met that they have established the grounds for relief for the 16-foot dimensional variance. Mr. Jackson seconded. The Vote was 4-1. Voting for was Mr. Collins, Ms. Gescheidt, Mr. Jackson & Ms. Krumholz. Opposed was Mr. Taylor.

2. A petition has been filed by Indian Head Realty, Inc. by its Attorney, James A. Donnelly of Fall River, MA requesting a dimensional variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to construct a new home at West DeMello Drive, Tiverton, RI being Map 4-3 Block 223 Card 27 on the Tiverton Tax Assessor's maps closer than the front yard setback currently required in a R80 zoning district.

DECISION: Attorney James Donnelly appeared before the board on behalf of Indian Head Realty, along with Mark DeMello.

Exhibit D was marked and consisted of the following documentation: Notice of hearing from Rhode Island D.E.M., the Plan that goes with the notice of hearing and the permit that was issued as a result of that hearing.

Attorney Donnelly addressed the board and stated that they are looking to build a house on this lot and need an 18 foot variance from the side yard setback. Due to the constraints of the land, along with DEM's recommendation, that is the only position the house can be constructed.

One neighbor appeared before the board to oppose this construction.

The Board went into Executive Session to discuss the matter. Ms. Gescheidt made a motion to approve the variance because of the special conditions and circumstances that exist that are peculiar to the land that are not applicable to other land in the same zoning district, that it is not due to the physical or economic disability of the applicant, that relief is not contrary to the public interest and that a literal enforcement of the zoning ordinance would result in unnecessary hardship to the applicant. This was not caused by an act of the applicant and that it won't alter the general character of the neighborhood or frustrate the purpose of the zoning law and that it is the least variance possible needed to remove the hardship. Mr. Jackson seconded. The Vote was unanimous.

3. A petition has been filed by Global Tower Partners of Boca Raton, FL and its Co-Applicant T-Mobile Northeast LLC requesting a special use permit to Article XVI Section 2 and Article IV Section 5.d of the Tiverton Zoning Ordinance in order to construct a 150 foot telecommunications tower at 408 Stafford Road (rear), Tiverton, RI being Map 4-12 Block 99 Card 74 on the Tiverton Tax Assessor's Maps whereby a special use permit is required in a R60 zoning district.

DECISION: Attorney Ricardo Sousa appeared on behalf of Global Tower Partners and stated they are looking for a special use permit to construct this tower to the height of 150 feet. He stated that that height is required to supply telecommunication coverage to the area. The company is looking to fill in its gap in coverage. They currently have a co-applicant, which is T-Mobile.

Irma Guino, a radio frequency engineer, appeared before the board to show and detail the current coverage map and the lack of coverage in this area. She stated that this tower is necessary to provide services for their customers.

Andrew Thompson, site acquisition agent, appeared before the board to explain why they chose this particular site for the tower. He stated that before picking this particular location, he went around town looking for an existing structure in which to place these antennas and could not locate a suitable place. Mr. Thompson also explained that they currently use a small refrigerator-style cabinet to store the equipment for such towers, such as generators and the like and they are well secured and locked and fenced off for their protection. Mr. Thompson also showed the Board pictures of what the tower would look like from different angles of town and how visible the tower would actually be, once built.

The Board went into Executive Session to discuss the matter. Ms. Gescheidt made a motion to approve the special use variance and the dimensional variance for the following reasons: That it is essential and desirable to the public welfare and convenience, that it won't be detrimental to the public, health, safety or morals, that it's compatible with neighboring uses, and won't affect the general character of the area. It won't create a nuisance. It won't hinder or endanger vehicular or pedestrian traffic. It also is the least amount of relief the Board can give. Ms. Gescheidt also requested a special condition that the tower does not exceed the 150 foot height. Mr. Taylor seconded. The Vote was unanimous.

A petition has been filed by Global Tower Partners of Boca Raton, FL and its Co-Applicant T-Mobile Northeast LLC requesting a special use permit to Article XVI Section 2 and Article IV Section 5.d of the Tiverton Zoning Ordinance in order to construct a 150 foot telecommunications tower at 408 Stafford Road (rear), Tiverton, RI being Map 4-12 Block 99 Card 74 on the Tiverton Tax Assessor's Maps whereby a special use permit is required in a R60 zoning district.

DECISION: The Board went into Executive Session to discuss the matter. Ms. Gescheidt made a motion to approve the special use variance and the dimensional variance for the following reasons: That it is essential and desirable to the public welfare and convenience, that it won't be detrimental to the public, health, safety or morals, that it's compatible with neighboring uses, and won't affect the general character of the area. It won't create a nuisance. It won't hinder or endanger vehicular or pedestrian traffic. It also is the least amount of relief the Board can give. Ms. Gescheidt also requested a

special condition that the tower does not exceed the 150 foot height. Mr. Taylor seconded. The Vote was unanimous.

4. A petition has been filed by Millenium Renewable Energy, LLC by their Attorneys, Silva Thomas, Martland & Offenberg, LTD of Middletown, RI requesting a special use permit to Article IV Section 5.d of the Tiverton Zoning Ordinance in order to construct a 343 foot wind turbine tower at Fish Road, Tiverton, RI being Maps 1-12 and 2-11 Block 92 Card 17 on the Tiverton Tax Assessor's Maps whereby a special use permit is required in a R40 zoning district.

DECISION: Attorney David Martland appeared before the board requesting a continuance on this matter. He stated that they are still in the process of working with the building inspector and planning board to iron out a few more issues before coming before the board. Mr. Jackson made a motion to continue one month. Mr. Taylor seconded. The vote was unanimous.

A petition has been filed by Millenium Renewable Energy, LLC by their Attorneys, Silva Thomas, Martland & Offenberg, LTD of Middletown, RI requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to construct a 343 foot wind turbine tower at Fish Road, Tiverton, RI being Maps 1-12 and 2-11 Block 92 Card 17 on the Tiverton Tax Assessor's Maps whereby a special use permit is required in a R40 zoning district.

DECISION: Attorney David Martland appeared before the board requesting a continuance on this matter. He stated that they are still in the process of working with the building inspector and planning board to iron out a few more issues before coming before the board. Mr. Jackson made a motion to continue one month. Mr. Taylor seconded. The vote was unanimous.

Administrative Items: Mr. Taylor made a motion to accept the minutes from last month. Ms. Krumholz seconded. The Vote was unanimous.

Ms. Krumholz made a motion to adjourn the meeting. Mr. Jackson seconded. The Vote was unanimous.

The meeting concluded at 9:10 p.m.

ZBR: mae